

AMENDED IN ASSEMBLY AUGUST 6, 2002

AMENDED IN ASSEMBLY JUNE 27, 2001

AMENDED IN SENATE APRIL 3, 2001

SENATE BILL

No. 1045

Introduced by Senator Polanco

February 23, 2001

An act to add Sections 11139.6, 11139.7, and 11139.8 to the Government Code, relating to public employment and contracting.

LEGISLATIVE COUNSEL'S DIGEST

SB 1045, as amended, Polanco. Public employment and contracting.

Existing provisions of the California Constitution prohibit discrimination or preferential treatment based on race, ethnicity, and gender in the operation of public employment, public education, and public contracting.

This bill would declare the intent of the Legislature to reaffirm diversity as a public policy goal in public employment and public contracting. The bill would authorize governmental agencies to engage in various general recruitment and outreach programs and focused outreach activities to increase diversity in public employment and public contracting. The bill would require each state department or agency awarding a contract or procuring goods or services, and would authorize each local agency receiving state funds, to collect information and report annually to the Governor and the Legislature on the participation level of minority, women, and disabled veteran-owned business enterprises in these contract and procurement activities.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature hereby finds and declares the
2 following:

3 (a) Proposition 209, enacted by the voters on November 5,
4 1996, amended the California Constitution by adding Section 31
5 to Article I thereof to ban discrimination or preferential treatment
6 based on race, ethnicity, and gender in the operation of public
7 employment, public education, and public contracting.

8 (b) It is the intent of the Legislature to reaffirm diversity as a
9 public policy goal in public contracting and public employment.

10 (c) California's ability to compete will suffer if talented, skilled
11 business professionals and workers from any segment of the labor
12 pool are excluded from employment or denied contracting
13 opportunities because of discrimination or exclusion.

14 (d) In an August 1, 2000, report by the Governor's Task Force
15 on Diversity and Outreach, the Task Force recommended the
16 state's outreach efforts should ensure all sectors of California's
17 workforce are informed of state employment openings.

18 (e) It is the intent of this act to emphasize and clarify that
19 Section 31 of Article I does not prohibit governmental agencies
20 from fashioning outreach programs in ways that will yield diverse
21 results in public employment and public contracting.

22 (f) It is further the intent of the Legislature to clarify
23 permissible outreach strategies to accomplish the diversity goal.

24 SEC. 2. Section 11139.6 is added to the Government Code, to
25 read:

26 11139.6. (a) (1) The Legislature finds and declares that
27 subdivision (a) of Section 31 of Article I of the California
28 Constitution prohibits state and local government agencies from
29 discriminating against or granting preferential treatment to any
30 individual or group on the basis of race, sex, color, ethnicity, or
31 national origin in the operation of public employment, public
32 education, and public contracting. The Legislature finds that this
33 prohibition does not prevent governmental agencies from
34 engaging in public sector outreach programs that, as a component
35 of general recruitment, may include, but not be limited to, focused

1 outreach and recruitment of minority groups and women if any
2 group is underrepresented in entry level positions of a public sector
3 employer.

4 (2) It is the intent of this section that all governmental agencies
5 shall engage in general recruitment and outreach programs to all
6 individuals, including persons who are economically
7 disadvantaged.

8 (b) For purposes of this section, underrepresentation shall be
9 determined by comparing the minority group or the number of
10 women at the governmental agency with that group's
11 representation in the current civilian labor force in the jurisdiction
12 of the governmental agency.

13 (c) State government employment shall use current state
14 civilian labor force data to implement this section.

15 (d) It is the intent of this section to allow public sector
16 employers to conduct outreach efforts with a goal of
17 supplementing word-of-mouth recruitment that should result in
18 increasing diversity of the public sector workforce.

19 (e) The type of recruitment activities allowed would include,
20 but not be limited to, placement of job announcements in the
21 following media instruments:

22 (1) General circulation newspapers, general circulation
23 publications, and general market radio and television stations,
24 including electronic media.

25 (2) Local and regional community newspapers.

26 (3) Newspapers, publications, and radio and television stations
27 that provide information in languages other than English and
28 whose primary audience is residents of minority and low-income
29 communities.

30 (4) Publications, including electronic media, that are
31 distributed to the general market and to newspapers, publications,
32 and radio and television stations whose primary audience is
33 comprised of minority groups or women.

34 (5) Recruitment booths at job fairs or conferences oriented to
35 both the general market as well as those events drawing a
36 significant participation by minorities or women.

37 SEC. 3. Section 11139.7 is added to the Government Code, to
38 read:

39 11139.7. (a) The Governor's Task Force on Diversity and
40 Outreach, in its August 1, 2000, report, concluded that data on

1 minority business participation is not currently available, and that
2 lack of useful data on minority business participation in state
3 contracting is an overarching issue to be addressed.

4 (b) In contracting for and procuring goods, services,
5 information technology, construction, architecture, and
6 engineering consulting, and other consulting services, state and
7 local departments and agencies are authorized to engage in
8 focused outreach activities in addition to general outreach, for
9 purposes of increasing participation by California's small business
10 sector and increasing diversity in the state's contracting and
11 procurement activities.

12 (c) Outreach activities may include, but are not limited to, the
13 following:

14 (1) Invitations to bid distributed by state and local departments
15 and agencies to state and local small business and trade
16 associations and chambers of commerce, including ethnic
17 chambers of commerce, and other business and professional
18 associations, including professional minority, women, and
19 disabled veteran-owned business and professional groups and
20 associations, as appropriate.

21 (2) Publication of advertising concerning state and local
22 contracting and procurement opportunities in trade papers and
23 other publications focusing on small business enterprises,
24 including publications and newspapers in languages other than
25 English and those whose primary readership is minority, women,
26 or disabled veteran-owned businesses.

27 (3) Outreach by small business advocates in each state or local
28 government department or agency to state and local small business
29 and trade associations and chambers of commerce, including
30 ethnic chambers of commerce, and other business and professional
31 associations, including professional minority, women, and
32 disabled veteran-owned business and professional groups and
33 associations, as appropriate.

34 SEC. 4. Section 11139.8 is added to the Government Code, to
35 read:

36 11139.8. Notwithstanding any other provision of law,
37 commencing January 1, ~~2002~~ 2003, each state department or
38 agency awarding a contract or procuring goods or services shall,
39 and each local agency receiving state funds may, collect
40 information and report to the Governor and the Legislature on the

1 level of participation by minority, women, and disabled
2 veteran-owned business enterprises in contract and procurement
3 activities as identified in this section. The reports shall be
4 submitted annually, on or before July 1 of each year, and shall
5 include dollar values of contract awards for the following
6 categories of contractors:

7 (a) Construction.

8 (b) Architecture and engineering and other professional
9 services.

10 (c) Procurement of materials, supplies, and equipment.

11 (d) Information technology procurements.

